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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,397	06/27/2003	Mack Woodbury	20022203.01	4803
7590	01/12/2006		EXAMINER WILSON, LEE D	
John J. Swartz 908 Court Street Saginaw, MI 48602			ART UNIT 3723	PAPER NUMBER
DATE MAILED: 01/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

TK

Office Action Summary

Application No.

10/606,397

Applicant(s)

WOODBURY, MACK

Examiner

LEE D. WILSON

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2, 3-8, 11-13, 15-19, 21-26, 31-39, and 41-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 2-8, 11-13, 15-19, 21-26, 31-39 and 41-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated
by Kleinbongartz (6123326).

Kleinbongartz discloses a trimming tool having a first and second clamp arms with faces (44&5), a means with rotatable axis (7), and a means for urging clamp arms (i0).

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated
by Zborschil (5427364).

Zborschil discloses a trimming tool having a first and second clamp arms with faces ((4&3), a means with rotatable axis (6), and a means for urging clamp arms (5).

3. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated
by Hewson (4253649).

Hewson discloses a trimming tool having a first and second clamp arms with faces (47), a means with rotatable axis (6), and a pair of right angular mounting bars (41).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-8, 11-13, 15-19, 21-26, 31-39, and 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hewson (4253649) in view of Carter (1587820).

- a. Hewson is discussed above.
- b. Hewson does not disclose a means for adjusting the arms toward and away from each other.
- c. Carter discloses a trim tool having arms (5&12) with a means for adjusting the arms towards and away from each other which allows the clamp additional degrees of adjustment.
- d. It would have been obvious to one of ordinary skill in the art would have modified the Hewson device by providing an adjustment means as taught by Carter which allows the clamp additional degrees of adjustment.

Response to Arguments

6. Applicant's arguments filed 10/28/05 have been fully considered but they are not persuasive.

7. Applicant argues that the 102 and 103 are not valid and workpiece is not shown in the prior art.

e. The last amendment was considered. The intended use of the tool is not patentable especially in an apparatus claim which grants patents on the basis of the patentable structure of the actual apparatus and not any other peripheral workpieces or structures not part of the apparatus. The tool is inclusive within itself and the workpiece is not part of the invented structure of the tool being covered by the patent. In a method or process claim the uses and the process being completed by tool would be covered because the apparatus itself is not the sole element being considered for patentability.

f. Applicant is relying on how the clamp is being situated in certain applications. Also of how the clamp is being placed and used. These limitations do not modify the structure of the clamp. Patentability is being based on the structure of the clamp.

g. The old rejections on claim one remain because intended use does not overcome a 102 rejection.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

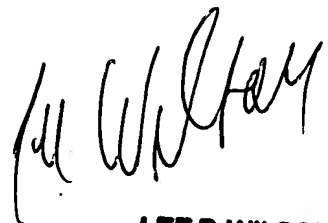
Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D. WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ldw

June 27, 2005



LEE D. WILSON
PRIMARY EXAMINER



*Charger
Approved
11/9/06
W*

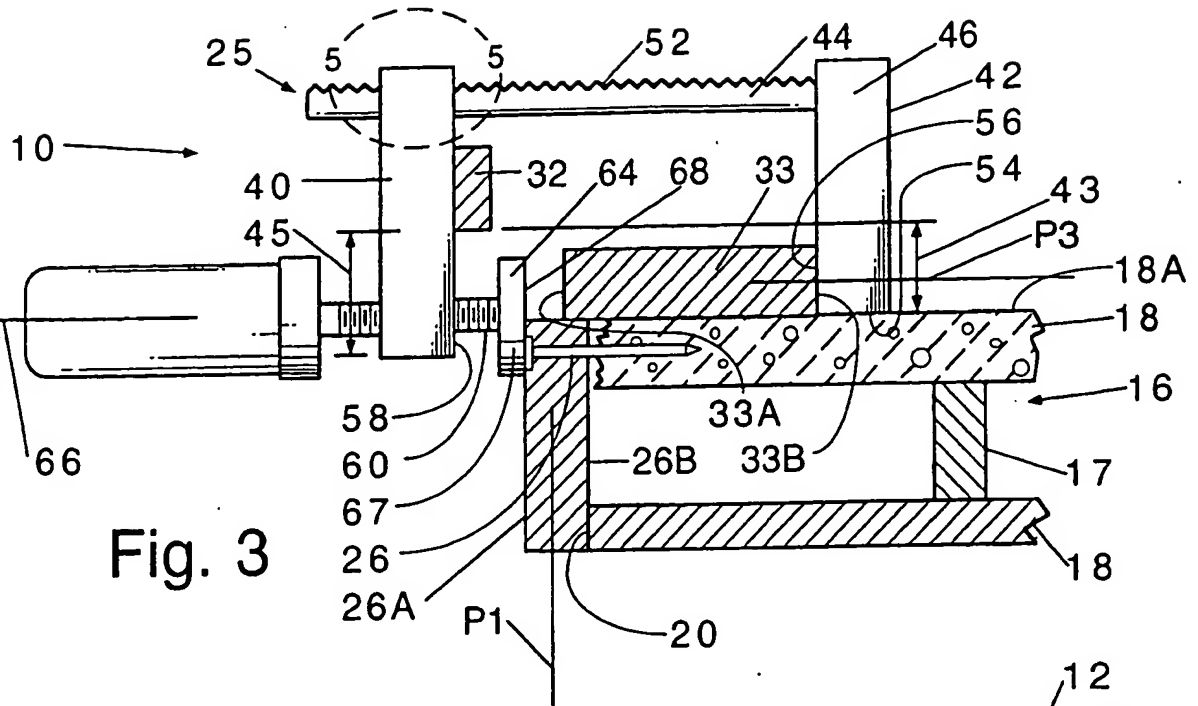


Fig. 3

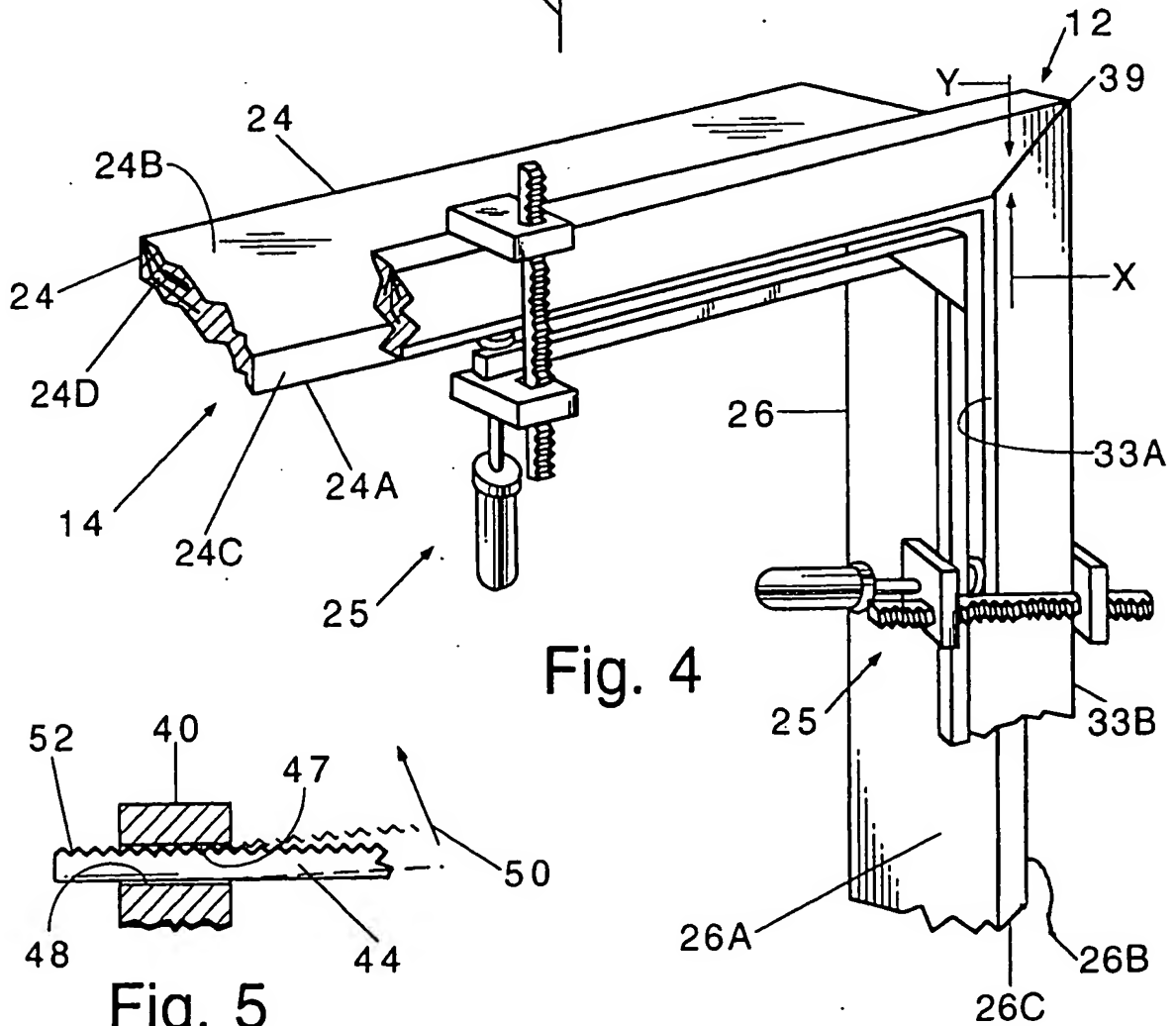


Fig. 4

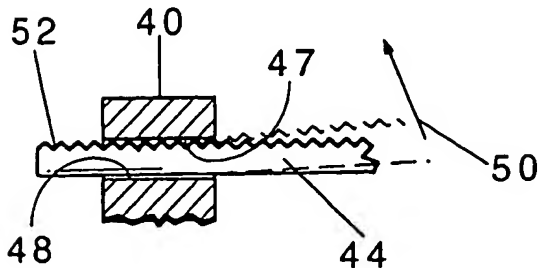


Fig. 5